

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5863 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

=====

1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No

J

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

JADAVBHAI SAMJIBHAI

Versus

NUTAN MILLS LTD

Appearance:

MR PS CHARI for Petitioner

NOTICE SERVED for Respondent No. 1

MS HANSA B PUNANI for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 03/07/98

ORAL JUDGEMENT

In this petition, which is filed under Article 227
of the Constitution, the petitioner has challenged that
part of the order rendered by the Industrial Court,

Gujarat, Ahmedabad by which the petitioner is denied backwages and continuity of service while directing the respondents to reinstate the petitioner afresh as a Badli worker.

2. The petitioner was served with a notice dated April 4, 1976 calling upon him to show cause as to why he should not be dismissed from service. The petitioner was dismissed from service on April 10, 1976. Feeling aggrieved by the said order, the petitioner filed an application before Labour Court under the provisions of the Bombay Industrial Relation Act. The Labour Court dismissed the application filed by the petitioner vide order dated May 21, 1984. The petitioner, therefore, preferred an appeal before the Industrial Court, Gujarat, Ahmedabad. The Industrial Court by an order dated February 17, 1986 directed the respondents to reinstate the petitioner in service afresh as a Badli worker, but denied the backwages and continuity in service. Therefore, the petitioner has filed present petition for claiming backwages and continuity in service.

3. The learned Counsel for the petitioner submitted that denial of backwages as well as continuity of service is unjust and, therefore, the petition deserves to be accepted. It was pleaded that as the petitioner was ordered to be reinstated in service afresh as a Badli worker, consequential relief of backwages and continuity in service should not have been denied to the petitioner. It was also contended by the learned Counsel that denial of reliefs should not be upheld, more particularly when the petitioner was removed from service by the Company with ulterior motive and to harass him.

4. The Industrial Court, after taking into consideration the facts of the case, has held that the petitioner was employed as a Badli worker when he was dismissed from service. Under the circumstances, the Industrial Court directed the respondent-Company to reinstate the petitioner afresh as a Badli worker either in first shift or in second shift. In view of the evidence led by the parties, the Industrial Court has come to the conclusion that the petitioner is not entitled to the reliefs of backwages and continuity in service. In my view, the findings recorded by the Industrial Court which are based on facts, cannot be interfered with in the present petition which is filed under Article 227 of the Constitution. The petition, therefore, cannot be accepted and it is liable to be rejected.

For the foregoing reasons, the petition fails and is dismissed. Rule is discharged, with no order as to costs.

=====

(patel)